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09/304,393	05/04/1999	ANDRE RUDOLF LOUIS COLAS	VN24	9604

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DOW CORNING CORPORATION CO1232
2200 W. SALZBURG ROAD
P.O. BOX 994
MIDLAND, MI 48686-0994

EXAMINER

ZIRKER, DANIEL R

ART UNIT	PAPER NUMBER
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1771

13

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Paper No. 13

Serial Number: 09/304,393
Filing Date: May 4, 1999
Appellant(s): Andre Colas et al.

Roger Gobrogge
For Appellants

EXAMINER'S ANSWER

MAILED

FEB 06 2002

GROUP 1700

1. (1) *Real Party in Interest*
2. A statement identifying the real party in interest is contained in the Brief.
3. (2) *Related Appeals and Interferences*
The statement identifying the related appeals and interferences of which there are none is contained in the Brief.
4. (3) *Status of Claims*
5. The statement of the status of the claims contained in the Brief is correct.
6. (4) *Status of Amendments After Final*
7. The appellants' statement of the status of amendments after final rejection contained in the Brief is correct.
8. (5) *Summary of Invention*

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9. The summary of invention contained in the Brief is correct.

10. *(6) Issues*

11. The appellants' statement of the issues in the Brief is correct.

12. *(7) Grouping of Claims*

Appellants' Brief includes a statement that the claims 1-6 and 8 will stand or fall together.

13. *(8) Claims Appealed*

14. The copy of the appealed claims contained in the Appendix to the Brief is correct. The Brief further lists objected to claims 7 and 9 as well as allowed claim 10.

15. *(9) Prior Art of Record*

16. The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

WO 96/09076
GB 2,192,142A

Mölnlycke AB
Johnson & Johnson

March 1996
January 1988

17. *(10) Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-6 and 8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the disclosures of either WO 96/09076 or GB 2,192,142A. The references each disclose (note particularly WO -076 the Abstract, Figure 1, page 3 lines 1-7, lines 27-35, page 4 line 27 - page 5 line 6, page 5 lines 28-30, page 6 lines

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18-37, claim 1; GB -142 page 1, lines 39-55, page 2 lines 46-130, page 3 lines 12-15, lines 20-27, Example 1) genres of medical dressings which can comprise a suitable flexible carrier material such as a non-woven or knitted fabric which is coated on both outer surfaces with a layer of a suitable silicone gel, which, except for the believed "nominal" method of using (making?) step, is substantially all that appellants' claims require. Note that WO -976 expressly teaches the presence of a "continuous" gel layer on both sides of the carrier material (e.g. page 3 lines 4-5) while although GB -142 appears to lack an express disclosure of a "continuous" layer of silicone gel, such limitation, if not inherent in the reference is believed to be well within the ordinary skill of the art. The Examiner further believes that the teaching of a suitable carrier sheet having the requisite outer adhesive layers, i.e. silicone gels on both surfaces of the dressing, is more than enough to put well within the grasp of one of ordinary skill the claimed method of bonding each surface to a suitable "substrate", which is all that appellants' independent claim 1 requires, in the absence of unexpected results not heretofore shown on the record.

18. (11) *Response to Argument*

It is initially noted that, technically, all of the absence of a method step in the claim analysis could be avoided since all of the claims are argued as standing or falling

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together and this includes closely related, i.e., one side of the adhesive device is previously adhered to a "substrate", article claim 8. Appellants argue (Brief, page 4 bottom paragraph) that the references do not teach the claimed method of contemplated usage for the claim 8 article, i.e., "for adhering it to a second substrate" but the Examiner respectfully submits that in an article claim this is simply irrelevant. Additionally, appellants have argued in several places that the Examiner has focused on the silicone gel "composition", as opposed to the method of using which has been claimed. However, it is again respectfully pointed out that it is the method of using an article, not a composition that is involved here and is clearly put within the skill of the art by each of the references. With respect to appellants' contention that WO -076 "teaches away" from the claimed invention by its inclusion of a top layer 4 (Brief, page 5 top paragraph), the Examiner again respectfully disagrees and further notes that it could be argued that Figure 1 of the reference also teaches in its disclosure of outer sheets 4 and 5 on each outer surface of the silicone gels that the claimed method of adhering each outer silicone gel to a "substrate" is, if not anticipated, at least clearly put within the skill of the art by this isolated disclosure. Finally, it is also noted that appellants by their use of Jepson claim format even appear to admit what the Examiner believes any reasonable observer would

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find obvious, namely that an article having a carrier sheet coated on each outer surface with an adhesive layer would be expected to bond each of these layers to a suitable desired substrate.

19. For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Dzirker:cdc
February 28, 2002

Roger Gobrogge
Dow Corning Corporation
CO1232
2200 W. Salzburg Road
P.O. Box 994
Midland, MI 48686-0994

DANIEL ZIRKER
PRIMARY EXAMINER
GROUP 4000-
1700

Daniel Zinker

Conferre.

CA Keely
FM